

REMARKS

The Official Action of April 7, 2004 has been carefully considered and reconsideration of the application as amended is respectfully requested.

The indication of the allowability of claims 3-6, 8, 11, 15, 17 and 19, if rewritten in independent form including all of the limitations of the base claim and any intervening claims, has been noted with appreciation. Also noted with appreciation is the indication that claims 12 and 18 would be allowable if rewritten to overcome the rejections under 35 USC 112, second paragraph, and to include all of the limitations of the base claim and any intervening claims.

Claim 1 has now been amended by the incorporation of the recitations formerly in claim 3 (now canceled), claim 7 has now been amended by the incorporation of the recitations formerly in claim 8 (now canceled), and claims 12 and 18 have been amended to remove the bases for the rejections at paragraphs 2-4 of the Official Action, whereby all claims depending from independent claims 1 and 7 (claims 2, 4-6 and 9-13) are now in allowable form in accordance with the Examiner's comments.

With respect to claims 14 and 16, the same were rejected under 35 USC 102(e) as allegedly being anticipated by Kurihashi. Claim 20 was rejected under 35 USC 103(a) as allegedly being unpatentable over Kurihashi in view of Shantha. Applicant


respectfully traverses this rejection.

As described in the specification at, for example, page 11, line 8 to page 12, line 7, a tube position finding means, such as the ultrasonic probe or endoscope described on these pages, performs the function of finding the position of the probe tube in the lacrimal passage or the nasal cavity, which necessitates searching the passage or cavity. In contrast, the means (61) described in the cited Kurihasi reference is a wire for searching within the tube (42) only. It may thus be appreciated that the structure described in the Kurihasi reference cannot perform the same function as the tube position finding means described in the present specification.

Claim 14 has now been amended with the insertion into the claim of the statutory "means plus function" language of 35 USC 112, sixth paragraph, and the claimed tube position finding means is limited to structures that can perform the recited function. (As stated in MPEP Section 2184, unless a prior art element performs the identical function specified in the claim, it cannot be an equivalent for the purposes of 35 USC 112, sixth paragraph.) Since the cited references do not show or suggest any element that could perform the function recited in the claimed means they cannot set forth even a *prima facie* case of anticipation or obviousness for the invention as claimed.

In view of the above, it is respectfully submitted that the prior art rejections to claim 14 and the claims depending therefrom have been overcome and that the

application is otherwise in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,
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